

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSFILED
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2004 APR 30 A 10:35

BACOU-DALLOZ USA SAFETY, INC., and
HOWARD LEIGHT INDUSTRIES, LLC

Plaintiffs,

v.

CABOT SAFETY INTERMEDIATE
CORPORATION and AEARO COMPANY

Defendants.

Case No. 04-40049-NMG

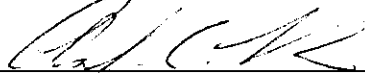
**DEFENDANTS' MOTION TO DISMISS OR
TRANSFER VENUE PURSUANT TO 28 U.S.C. §1404**

NOW COME the Defendants Cabot Safety Intermediate Corporation and Aearo Company (collectively referred to herein as "Cabot") and hereby move to to dismiss this action or, in the alternative, to transfer venue to the Southern District of Indiana pursuant to 28 U.S.C. §1404(a). In support of this Motion, Cabot states that venue is improper in Massachusetts because there is a first-filed parallel action between the same parties involving the same issues currently pending in the Southern District of Indiana. Moreover, transfer is appropriate because none of the witnesses and documents relevant to this action are located in Massachusetts. Rather, the relevant witnesses and documents are located in Indianapolis, Indiana. Further, the plaintiffs, Bacou-Dalloz USA Safety, Inc. and Howard Leight Industries, LLC (collectively referred to herein as "Leight"), have absolutely no connection to Massachusetts. Leight has no facilities, employees, or documents located in Massachusetts. Thus, Leight's Complaint for Declaratory Judgment is a blatant effort to forum shop and Cabot's motion to dismiss or transfer should therefore be granted.

In further support of this motion, Cabot relies on its concurrently filed Memorandum of Law in Support of Motion to Dismiss or Transfer Venue Pursuant to 28 U.S.C. §1404(a) and the arguments presented therein.

Respectfully submitted,

CABOT SAFETY INTERMEDIATE
CORPORATION and AEARO COMPANY

By: 

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing DEFENDANTS' MOTION TO TRANSFER VENUE PURSUANT TO 28 U.S.C. §1404 was sent by first class mail, postage prepaid, on this 29th day of April, 2004, to the following:

Charles Hieken, Esq.
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Andrew C. Ryan